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A Bad Bill

By William H. Schaap

WASHINGTON — The parliamentary record is chillingly direct: This bill, the lawmaker admitted, "could subject a private citizen to criminal prosecution for disclosing unclassified information obtained from unclassified sources." The quotation, however, is not from any Latin-American dictatorship, nor from Eastern Europe; it is, unfortunately, from the Congressional Record, and the speaker is the chairman of the House Intelligence Committee, Edward P. Boland.

In October, a bill known as the Intelligence Identities Protection Act, was quietly introduced, and, if it passes, investigative journalists and Government whistle-blowers are both in for big trouble.

The bill, proposed, authored and promoted by the Central Intelligence Agency, makes it a crime for anyone who has had access to information that identifies undercover intelligence personnel to disclose such information, and also makes it a felony for anyone else to do so with the "intent to impair or impede the foreign intelligence activities of the United States."

The first provision would completely stifle criticism and reform from within the intelligence community; the second would eliminate scrutiny from the outside. Indeed, the bill would represent the insidious beginning of an Official Secrets Act. It would criminalize the writings of Philip Agee, John Stockwell, Frank Snepp and others, even though they exposed large-scale violations of law, even though they laid bare systematic lying to Congress, even though they totally belied the high moral tone of C.I.A. propaganda.

This law would also strike at the heart of investigative journalism. For example, it would have criminalized the disclosure of regular C.I.A. payments to King Hussein of Jordan; it

would have prevented exposure of the key role the C.I.A. and military intelligence played in torture and murder in Vietnam; it would have prohibited exposure of the backgrounds of the intelligence officers and agents involved in Watergate.

That the bill is "limited" to information that identifies officers and agents is of little significance. It is virtually impossible to expose illegal or immoral activity within government without disclosing who is responsible for, or involved with, the illegalities.

The requirement that journalists' activity, to be criminal, be carried out with intent to impede intelligence activities is another smokescreen. From the C.I.A.'s, and from a prosecution's, viewpoint, any disclosures would be considered an impediment to operations; the motives of the discloser would be of little real significance. What is more, the bill is not even limited to the protection of legal activities.

This bill is unnecessary and unwise. Even the Justice Department advised against it, noting that existing espionage laws adequately protect national security.

Laws such as this must be strictly limited to protecting what is in fact secret, and to what is in fact damaging to the national security. Anything more represents a serious infringement of the First Amendment.

This is the difference between the laws and the Constitution of this country and those of countries that have Official Secrets Acts. Such laws allow the government to prohibit the disclosure of information that the government declares to be secret — regardless of reality. Such laws shield immoral and illegal conduct; they are not aimed at external enemies, but at whistle-blowers and reformers in government, and at journalists outside.

We must be aware of this attack on our rights and our responsibilities.

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